

REMARKS

Reconsideration of the application, as presently amended, is respectfully requested. Claims 1 and 21 have been amended. Claims 19 and 37 have been cancelled. No claims have been added.

Claims 1-38 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicant respectfully submits that claims 1-38 as pending prior to this Amendment were directed to patentable subject matter. However, in an effort to further prosecution of this application, Applicant has amended claims 1 and 21 in response to the rejection of claims 1-38 as not being directed to statutory subject matter. In particular, claim 1 has been amended to recite that the steps of claim 1 of informing the individual, obtaining the individual's consent or acknowledgment, transmitting data to the entity, and receiving data from the entity are performed over a computer network. Claim 21 has been amended to recite that a computer network comprises means for informing the individual, obtaining the individual's consent or acknowledgment, transmitting data to the entity, and receiving data from the entity. Applicant respectfully submits that, even if it is assumed, for the sake of argument, that claims 1 and 21 prior to their amendment herein were not directed to statutory subject matter, each of claims 1 and 21 are now clearly directly to statutory subject matter.

Pending claims 1-18, 20, 22-36, and 37 depend from and further limit independent claims 1 and 21, respectfully. Applicant respectfully submits that each of these dependent claims, by virtue of dependence from claim 1 or claim 21, is directed to statutory subject matter.

Claims 1-5, 7-9, 16-17, 19-27, 34-35, and 37-38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent No. 6,092,197 to Coueignoux ("Coueignoux"). Coueignoux is directed to a system and method of discovering and exploiting information such as private or confidential facts from a user, while securing the information from unauthorized publication. Applicant respectfully submits that pending claims 1-18, 20-36, and 38 distinguish over Coueignoux in a patentable sense, as discussed in more detail below.

Coueignoux fails to teach, suggest, or render obvious at least one of the distinguishing features of independent claim 1. In particular, Coueignoux fails to teach, suggest,

or render obvious the distinguishing feature of claim 1 of informing an individual involved in potential disclosure of his/her personal data to an entity that the entity has certified its compliance with approved privacy and data security practices. In contrast, Coueignoux appears to disclose an agent that receives a request for the publication of a fact from a sender and communicates with a user. The agent of Coueignoux requests that the user reveal facts and provide indicia relating to authorization for publication of the revealed facts. Coueignoux in no way discloses informing an individual that an entity has certified its compliance with approved privacy and data security practices.

In addition, Coueignoux fails to teach, suggest, or render obvious transmitting to an entity data in indicating that the individual has been informed of the entity's privacy practices and consented to the entity receiving, or acknowledge that the entity will be receiving, and using his/her personal data in accordance with its stated policy or with relevant data protection and privacy laws covering the use of personal data in at least the individual's or the entity's country of location. It appears that the Office Action has equated the sender of Coueignoux with the entity of claim 1 and the user of Coueignoux with the individual of claim 1. Even if it is assumed, for the sake of argument, that the Office Action is correct in doing so, Applicant respectfully submits that Coueignoux in no way teaches transmitting to the entity data indicating that the individual has been informed of the entity's privacy practices and consented to the entity receiving, or acknowledge that the entity will be receiving, and using his/her personal data. In contrast, in Coueignoux, the agent appears to handle the transmission of facts between the user and the sender and in no way transmits to the sender data that indicates that the user has been informed of any privacy practices of the sender.

Further, Coueignoux fails to teach, suggest, or render obvious the distinguishing feature of independent claim 1 of receiving from the entity data comprising personal data collected by the entity from the individual. Again, even if it is assumed, for the sake of argument, that the sender of Coueignoux may be equated with the entity of claim 1 and the user of Coueignoux may be equated with the individual of claim 1, Coueignoux in no way teaches receiving from the entity data comprising personal data collected by the entity from the individual. In contrast, Coueignoux appears to disclose that the agent acts as an intermediary for communication of facts from the user to the sender. Coueignoux in no way discloses receiving

from the sender data comprising personal data collected by the sender from the user. By definition, Coueignoux also fails to teach, suggest, or render obvious the feature of independent claim 1 of storing the personal data received from the entity.

Moreover, Coueignoux fails to teach, suggest, or render obvious periodically checking whether the entity has complied with the stated policy or with relevant data protection or privacy laws and regulations covering the use of personal data in at least the individual's or the entity's country of location. The Office Action has asserted that this feature of independent claim 1 would have been obvious to a person of ordinary skill and has attempted to take Official Notice in support of same. Applicant respectfully submits that the Office Action has improperly attempted to rely on conclusions based on an assessment by the Examiner of what would be basic knowledge or common sense in the relevant art. Such reliance is improper in the absence of sufficient supporting evidence. Applicant respectfully submits that the Examiner must point to some concrete evidence in the record in support of the assertion by the Office Action that this feature of independent claim 1 is obvious. *See, e.g., In re Zurko*, 59 U.S.P.Q.2D 1693 (Fed. Cir. 2001). Applicant respectfully submits that this evidence has not been presented and requests that it be presented by the Examiner. If further elaboration of this point is deemed necessary or appropriate by the Examiner, Applicant respectfully requests that the Examiner contact the undersigned via telephone.

For at least the reasons set forth above, Applicant respectfully submits that independent claim 1 distinguishes over Coueignoux. Withdrawal of the rejection of independent claim 1 as obvious over Coueignoux is respectfully requested.

Dependent claims 2-18 and 20 depend from and further limit independent claim 1 in a patentable sense. For at least the reasons set forth above, Applicant respectfully submits that each of dependent claims 2-18 and 20 also distinguishes over Coueignoux. Withdrawal of the rejection of claims 2-5, 7-9, 16-17, and 20 is respectfully requested.

Independent claim 21 is deemed to distinguish over Coueignoux for similar reasons to those set forth above with respect to independent claim 1. Withdrawal of the rejection of independent claim 21 as obvious over Coueignoux is respectfully requested.

Dependent claims 22-36 and 38 depend from and further limit claim 21 in a patentable sense. For at least the reasons set forth above, Applicant respectfully submits that each of dependent claims 22-36 and 38 also distinguishes over Coueignoux. Withdrawal of the rejection of dependent claims 23-27, 34-35 and 38 is respectfully requested.

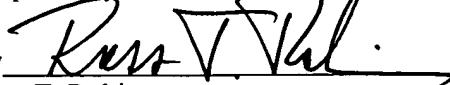
Claims 11-15, 18, 29-33, and 36 stand objected to as being dependent upon a rejected based claim, but have been indicated to be allowable if rewritten in independent form to include all of the limitations of base claim and any intervening claims and to comply with double patenting statutes. Applicant appreciates the Examiner's indication of allowable subject matter. Applicant respectfully submits that no double patenting rejection has been made in this Office Action.

Applicant notes the Office Action's Conclusion, in which the Examiner requests that the Applicant fully consider the references in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. Applicant respectfully reminds the Examiner of the Examiner's duty under 37 C.F.R. 1.104(c) to designate as nearly as practicable particular parts of references relied upon by the Examiner and to clearly explain the pertinence of each reference.

In view of the above, each of the presently-pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted

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